

AMENDED IN SENATE APRIL 4, 2005

**SENATE BILL**

**No. 104**

**Introduced by Senator Ortiz**

January 20, 2005

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An act *to amend Sections 26602 and 41601 of the Government Code, and to amend Section 101317 of, and to add Sections 100106 and 101029 to, the Health and Safety Code, relating to public health.*

LEGISLATIVE COUNSEL'S DIGEST

SB 104, as amended, Ortiz. ~~Bioterrorism~~ *Public health orders: enforcement.*

Existing law authorizes the Director of Health Services and local health officers to issue orders to enforce various health and safety requirements.

~~This bill would make an order of a local health officer enforceable immediately by certain state or local peace officers.~~

*This bill would authorize local peace officers to enforce the orders of the State Department of Health Services and of local health officers issued for the purpose of preventing the spread of any contagious, infectious, or communicable disease and would require the state director and the local health officer to advise regarding measures to be taken to prevent infection of enforcement officers when requesting enforcement of their orders. To the extent these requirements would increase the enforcement duties of local agencies, this bill would impose a state-mandated local program.*

Existing law establishes procedures and requirements to govern the allocation to, and expenditure by, local health jurisdictions of federal funding received for the prevention of, and response to, bioterrorist attacks and other public health emergencies. Existing law provides that these procedures apply only when local health jurisdictions are designated by a federal or state agency to manage the funds for public

health preparedness and response to bioterrorist attacks and other public health emergencies, pursuant to a federally approved plan.

Existing law also provides that federal funding received by the State Department of Health Services for bioterrorism preparedness and emergency response is subject to appropriation in the annual Budget Act commencing with the 2003–04 fiscal year.

This bill would deem moneys made available in the 2004–05 Budget Act for bioterrorism preparedness available for expenditure and encumbrance until August 30, 2006.

*The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.*

*This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.*

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes.  
State-mandated local program: ~~no~~-yes.

*The people of the State of California do enact as follows:*

- 1     ~~SECTION 1. Section 100106 is added to the Health and~~
- 2     ~~Safety Code, to read:~~
- 3     ~~100106. An order of the director is enforceable immediately~~
- 4     ~~by state or local peace officers, as defined in Sections 830.1 and~~
- 5     ~~830.2 of the Penal Code.~~
- 6     ~~SEC. 2. Section 101029 is added to the Health and Safety~~
- 7     ~~Code, to read:~~
- 8     ~~101029. An order of a local health officer is enforceable~~
- 9     ~~immediately by state or local peace officers, as defined in~~
- 10    ~~Sections 830.1 and 830.2 of the Penal Code.~~
- 11    ~~SECTION 1. Section 26602 of the Government Code is~~
- 12    ~~amended to read:~~
- 13    ~~26602. The sheriff shall prevent and suppress any affrays,~~
- 14    ~~breaches of the peace, riots, and insurrections which that come to~~
- 15    ~~his or her knowledge, and investigate public offenses which have~~
- 16    ~~been committed. The sheriff may execute all orders of the local~~
- 17    ~~health officer issued for the purpose of preventing the spread of~~
- 18    ~~any contagious or communicable disease.~~

1     *SEC. 2. Section 41601 of the Government Code is amended to*  
2     *read:*

3     41601. For the suppression of riot, public tumult, disturbance  
4     of the peace, or resistance against the laws or public authorities  
5     in the lawful exercise of their functions, *and for the execution of*  
6     *all orders of the local health officer issued for the purpose of*  
7     *preventing the spread of any contagious, infectious, or*  
8     *communicable disease, the chief of police has the powers*  
9     conferred upon sheriffs by general law and in all respects is  
10    entitled to the same protection.

11    *SEC. 3. Section 100106 is added to the Health and Safety*  
12    *Code, to read:*

13    100106. Pursuant to Section 11158 of the Government Code,  
14    the sheriff of each county, or city and county, may enforce within  
15    the county, or the city and county, all orders of the State  
16    Department of Health Services issued for the purpose of  
17    preventing the spread of any contagious, infectious, or  
18    communicable disease. Every peace officer of every political  
19    subdivision of the county, or city and county, may enforce within  
20    the area subject to his or her jurisdiction all orders of the State  
21    Department of Health Services issued for the purpose of  
22    preventing the spread of any contagious, infectious, or  
23    communicable disease. This section is not a limitation on the  
24    authority of peace officers or public officers to enforce orders of  
25    the State Department of Health Services. When requesting  
26    enforcement of its orders, the State Department of Health  
27    Services shall advise the enforcement agency of any measures  
28    that should be taken to prevent infection of the enforcement  
29    officers.

30    *SEC. 4. Section 101029 is added to the Health and Safety*  
31    *Code, to read:*

32    101029. The sheriff of each county, or city and county, may  
33    enforce within the county, or the city and county, all orders of the  
34    local health officer issued for the purpose of preventing the  
35    spread of any contagious, infectious, or communicable disease.  
36    Every peace officer of every political subdivision of the county,  
37    or city and county, may enforce within the area subject to his or  
38    her jurisdiction all orders of the local health officer issued for  
39    the purpose of preventing the spread of any contagious,  
40    infectious, or communicable disease. This section is not a

1 *limitation on the authority of peace officers or public officers to*  
2 *enforce orders of the local health officer. When requesting*  
3 *enforcement of its orders, the local health officer shall advise the*  
4 *enforcement agency of any measures that should be taken to*  
5 *prevent infection of the enforcement officers.*

6 ~~SEC. 3.~~

7 SEC. 5. Section 101317 of the Health and Safety Code is  
8 amended to read:

9 101317. (a) For purposes of this article, allocations shall be  
10 made to the administrative bodies of qualifying local health  
11 jurisdictions described as public health administrative  
12 organizations in Section 101185, and pursuant to Section  
13 101315, in the following manner:

14 (1) (A) For the 2003–04 fiscal year and subsequent fiscal  
15 years, to the administrative bodies of each local health  
16 jurisdiction, a basic allotment of one hundred thousand dollars  
17 (\$100,000), subject to the availability of funds appropriated in  
18 the annual Budget Act or some other act.

19 (B) For the 2002–03 fiscal year, the basic allotment of one  
20 hundred thousand dollars (\$100,000) shall be reduced by the  
21 amount of federal funding allocated as part of a basic allotment  
22 for the purposes of this article to local health jurisdictions in the  
23 2001–02 fiscal year.

24 (2) (A) Except as provided in subdivision (c), after  
25 determining the amount allowed for the basic allotment as  
26 provided in paragraph (1), the balance of the annual  
27 appropriation for purposes of this article, if any, shall be allotted  
28 on a per capita basis to the administrative bodies of each local  
29 health jurisdiction in the proportion that the population of that  
30 local health jurisdiction bears to the population of all eligible  
31 local health jurisdictions of the state.

32 (B) The population estimates used for the calculation of the  
33 per capita allotment pursuant to subparagraph (A) shall be based  
34 on the Department of Finance’s E-1 Report, “City/County  
35 Populations Estimates with Annual Percentage Changes” as of  
36 January 1 of the previous year. However, if within a local health  
37 jurisdiction there are one or more city health jurisdictions, the  
38 local health jurisdiction shall subtract the population of the city  
39 or cities from the local health jurisdiction total population for  
40 purposes of calculating the per capita total.

1 (b) If the amounts appropriated are insufficient to fully fund  
2 the allocations specified in subdivision (a), the department shall  
3 prorate and adjust each local health jurisdiction's allocation so  
4 that the total amount allocated equals the amount appropriated.

5 (c) For the 2002–03 fiscal year and subsequent fiscal years,  
6 where the federally approved collaborative state-local plan  
7 identifies an allocation method, other than the basic allotment  
8 and per capita method described in subdivision (a), for specific  
9 funding to a local public health jurisdiction, including, but not  
10 limited to, funding laboratory training, chemical and nuclear  
11 terrorism preparedness, smallpox preparedness, and information  
12 technology approaches, that funding shall be paid to the  
13 administrative bodies of those local health jurisdictions in  
14 accordance with the federally approved collaborative state-local  
15 plan for bioterrorism preparedness and other public health threats  
16 in the state.

17 (d) Funds appropriated pursuant to the annual Budget Act or  
18 some other act for allocation to local health jurisdictions pursuant  
19 to this article shall be disbursed quarterly to local health  
20 jurisdictions beginning July 1, 2002, using the following process:

21 (1) Each fiscal year, upon the submission of an application for  
22 funding by the administrative body of a local health jurisdiction,  
23 the department shall make the first quarterly payment to each  
24 eligible local health jurisdiction. Initially, that application shall  
25 include a plan and budget for the local program that is in  
26 accordance with the department's plans and priorities for  
27 bioterrorism preparedness and response, and other public health  
28 threats and emergencies, and a certification by the chairperson of  
29 the board of supervisors or the mayor of a city with a local health  
30 department that the funds received pursuant to this article will  
31 not be used to supplant other funding sources in violation of  
32 subdivision (d) of Section 101315. In subsequent years, the  
33 department shall develop a streamlined process for continuation  
34 of funding that will address new federal requirements and will  
35 assure the continuity of local plan activities.

36 (2) The department shall establish procedures and a format for  
37 the submission of the local health jurisdiction's plan and budget.  
38 The local health jurisdiction's plan shall be consistent with the  
39 department's plans and priorities for bioterrorism preparedness  
40 and response and other public health threats and emergencies in

1 accordance with requirements specified in the department's  
2 federal grant award. Payments to local health jurisdictions  
3 beyond the first quarter shall be contingent upon the approval of  
4 the department of the local health jurisdiction's plan and the local  
5 health jurisdiction's progress in implementing the provisions of  
6 the local health jurisdiction's plan, as determined by the  
7 department.

8 (3) If a local health jurisdiction does not apply or submits a  
9 noncompliant application for its allocation, those funds provided  
10 under this article may be redistributed according to subdivision  
11 (a) to the remaining local health jurisdictions.

12 (e) Funds shall be used for activities to improve and enhance  
13 local health jurisdictions' preparedness for and response to  
14 bioterrorism and other public health threats and emergencies, and  
15 for any other purposes, as determined by the department, that are  
16 consistent with the purposes for which the funds were  
17 appropriated.

18 (f) Any local health jurisdiction that receives funds pursuant to  
19 this article shall deposit them in a special local public health  
20 preparedness trust fund established solely for this purpose before  
21 transferring or expending the funds for any of the uses allowed  
22 pursuant to this article. The interest earned on moneys in the fund  
23 shall accrue to the benefit of the fund and shall be expended for  
24 the same purposes as other moneys in the fund.

25 (g) (1) A local health jurisdiction that receives funding  
26 pursuant to this article shall submit reports that display cost data  
27 and the activities funded by moneys deposited in its local public  
28 health preparedness trust fund to the department on a regular  
29 basis in a form and according to procedures prescribed by the  
30 department.

31 (2) The department, in consultation with local health  
32 jurisdictions, shall develop required content for the reports  
33 required under paragraph (1), which shall include, but shall not  
34 be limited to, data and information needed to implement this  
35 article and to satisfy federal reporting requirements. The  
36 chairperson of the board of supervisors or the mayor of a city  
37 with a local health department shall certify the accuracy of the  
38 reports and that the moneys appropriated for the purposes of this  
39 article have not been used to supplant other funding sources.

1 (h) The administrative body of a local health jurisdiction may  
2 enter into a contract with the department and the department may  
3 enter into a contract with that local health jurisdiction for the  
4 department to administer all or a portion of the moneys allocated  
5 to the local health jurisdiction pursuant to this article. The  
6 department may use funds retained on behalf of a local  
7 jurisdiction pursuant to this subdivision solely for the purposes of  
8 administering the jurisdiction's bioterrorism preparedness  
9 activities. The funds appropriated pursuant to this article and  
10 retained by the department pursuant to this subdivision are  
11 available for expenditure and encumbrance for the purposes of  
12 support or local assistance.

13 (i) The department may recoup from a local health jurisdiction  
14 any moneys allocated pursuant to this article that are unspent or  
15 that are not expended for purposes specified in subdivision (d).  
16 The department may also recoup funds expended by a local  
17 health jurisdiction in violation of subdivision (d) of Section  
18 101315. The department may withhold quarterly payments of  
19 moneys to a local health jurisdiction if the local health  
20 jurisdiction is not in compliance with this article or the terms of  
21 that local health jurisdiction's plan as approved by the  
22 department. Before any funds are recouped or withheld from a  
23 local health jurisdiction, the department shall meet with local  
24 health officials to discuss the status of the unspent moneys or the  
25 disputed use of the funds, or both.

26 (j) Notwithstanding any other provision of law, moneys made  
27 available for bioterrorism preparedness pursuant to this article in  
28 the 2001–02 fiscal year shall be available for expenditure and  
29 encumbrance until June 30, 2003. Moneys made available for  
30 bioterrorism preparedness pursuant to this article from July 1,  
31 2002, to August 30, 2003, inclusive, shall be available for  
32 expenditure and encumbrance until August 30, 2004. Moneys  
33 made available in the 2003–04 Budget Act for bioterrorism  
34 preparedness shall be available for expenditure and encumbrance  
35 until August 30, 2005. Moneys made available in the 2004–05  
36 Budget Act for bioterrorism preparedness shall be available for  
37 expenditure and encumbrance until August 30, 2006.

38 *SEC. 6. If the Commission on State Mandates determines that*  
39 *this act contains costs mandated by the state, reimbursement to*  
40 *local agencies and school districts for those costs shall be made*

- 1 *pursuant to Part 7 (commencing with Section 17500) of Division*
- 2 *4 of Title 2 of the Government Code.*

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